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SERVICE DATE - JANUARY 23, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 226X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION— IN  
MINGO COUNTY, WV, AND PIKE COUNTY, KY

Decided: January 15, 2002

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2.28-mile line of railroad between milepost CR-0.0, at Cedar, Mingo County, WV, and milepost CR-2.28, at Majestic, Pike County, KY (line). Notice of the exemption was served and published in the Federal Register on December 21, 2001 (66 FR 66016). The exemption is scheduled to become effective on January 24, 2002.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 28, 2001. Comments to the EA were due by January 11, 2002. No comments to the EA were received. In the EA, SEA stated that the States of Kentucky and West Virginia both have regulations regarding the emission of fugitive dust to ambient air (401 KAR 63:010 in the Kentucky Code of Regulations and 45 CSR 17 in the West Virginia Code of State Regulation) which could be applicable at this site.

Also, SEA stated that the West Virginia Division of Natural Resources, Wildlife Resources Section, anticipated no long term adverse environmental effects from the project. However, to protect water quality, the West Virginia Division of Natural Resources, Wildlife Resources Section had requested that appropriate sediment and erosion control measures be implemented during the rail and tie removal phases of the project.

Finally, SEA noted that the Kentucky Heritage Council (KY SHPO) had advised them that bridges on the line to be abandoned were potentially eligible for listing in the National Register of Historic Places and that KY SHPO had requested that a survey be conducted by a qualified architectural historian to evaluate the historical significance of the bridges on the line.

Based on the above, SEA recommended that the following three environmental conditions be placed on any decision granting abandonment authority: (1) to address the concerns raised by the States of Kentucky and West Virginia, NSR shall, prior to commencement of any salvage activities on this project, contact the Kentucky Department for Environmental Protection and the West Virginia Department of Environmental Protection concerning possible

impacts from fugitive dust emissions; (2) prior to any salvage activities, NSR shall consult with the West Virginia Division of Natural Resources, Wildlife Resources Section, to evaluate potential impacts on water quality in the region; and (3) pending resolution of the issue of whether there are bridges on the line to be abandoned which may have historical significance, NSR shall retain its interest in and take no steps to alter the historic integrity of all sites or structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

The three environmental conditions recommended in the EA will be imposed. As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the following three environmental conditions: (1) to address the concerns raised by the States of Kentucky and West Virginia, NSR shall, prior to commencement of any salvage activities on this project, contact the Kentucky Department for Environmental Protection and the West Virginia Department of Environmental Protection concerning possible impacts from fugitive dust emissions; (2) prior to any salvage activities, NSR shall consult with the West Virginia Division of Natural Resources, Wildlife Resources Section, to evaluate potential impacts on water quality in the region; and (3) pending resolution of the issue of whether there are bridges on the line to be abandoned which may have historical significance, NSR shall retain its interest in and take no steps to alter the historic integrity of all sites or structures on the right-of-way until completion of the section 106 process of the NHPA.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary